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FM AMEMBASSY SARAJEVO

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C O N F I D E N T I A L SECTION 01 OF 04 SARAJEVO 001221

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TAGS: PGOV PREL KAWC KCRM KJUS BK

SUBJECT: S/WCI AMBASSADOR WILLIAMSON'S JULY 8-12 VISIT TO  
BOSNIA

REF: SARAJEVO 1087 SARAJEVO 1090

Classified By: Deputy Chief of Mission Judith B. Cefkin for Reasons  
1.4 (B) and (D)

**¶1.** SUMMARY: (C) During a July 8-12 visit to Bosnia, Ambassador-at-Large for War Crimes Issues, Clint Williamson, met with key justice, political and international representatives to discuss war crimes issues. Officials working with the Bosnian State Court repeatedly expressed the need to extend the mandate of the international secondees working at the court; however, Bosnian government officials noted that getting approval to extend the secondees would be politically difficult, specifically in the organized crime unit. High Representative Miroslav Lajcak said that war crimes issues remain a key focus for OHR, but complained about the international community's lack of attention to Bosnia. Other international interlocutors noted the progress being made in specific areas, but expressed concerns about the increasingly hostile environment in which national judges and prosecutors operate. Bosnian officials, including Prime Minister Nikola Spiric and BiH Justice Minister Barisa Colak, acknowledged the need to improve regional cooperation on war crimes issues but had mixed views on the issue of extending international secondees. Williamson tried to counter concerns about extending secondees, noting that politicians from all ethnic groups fear the extension of internationals secondees, possibly out of concerns for their own self-preservation. Throughout his meetings, Williamson expressed strong USG support for the work of the State Court and Prosecutor's Office, and the proposal to extend seconded international judges and prosecutors. End Summary

Williamson Takes Stock of War Crimes Prosecution

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**¶2.** (C) During the course of a July 8-12 visit to Bosnia and Herzegovina, Ambassador-at-Large for War Crimes Issues Williamson met with key Bosnian judicial interlocutors to reiterate USG support for war crimes prosecutions by the State Prosecutor's Office. During a meeting with acting Chief Prosecutor Milorad Barasin, Barasin emphasized the importance of having international secondees remain in the War Crimes Division and the Organized Crime Division of the Bosnian State Court and the State Prosecutor's Office, noting that both institutions have suffered from an avalanche of

negative media as the December 2009 deadline for the departure of the internationals draws near. Barasin dismissed threats to the court as "part of the job," he also noted that he and his family, including his young son, had received threats. Williamson underscored USG support for the ongoing process of drafting a National War Crimes Strategy and prosecutorial guidelines. Williamson said that a successful closeout of the International Criminal Tribunal for the former Yugoslavia (ICTY) will depend in part on Bosnia's ability to develop its war crimes prosecution capabilities and efforts to improve regional cooperation. He emphasized that extending international judges and prosecutors in both the war crimes and organized crime chambers beyond 2009 would contribute to this outcome. Barasin briefed on plans to strengthen the court and prosecutorial capabilities, noting that the court is considering transferring the terrorism section to the organized crime section. These plans also include developing specialized expertise among the prosecutor corps, and to complete an inventory of war crimes cases nation-wide.

War Crimes Department Head Says His Department Has Momentum

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¶3. (C) The Head of the State Prosecutor's Office Special Department for War Crimes, David Schwendiman, briefed Ambassador Williamson on the Department's progress over the past six months. He said that much of the recent progress was the result of the departure of obstructionist Chief Prosecutor Marinko Jurcevic. Schwendiman noted that while Jurcevic has been on extended sick leave, the Prosecutor's

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Office has moved forward the National War Crimes Strategy, which will help to answer whether war crimes prosecutions should be centralized and how long international assistance will continue. Schwendiman added that in conjunction with the strategy, his office is working on a case catalogue, which will document all cases nation-wide. He warned, however, that these successes could be rolled back if the international secondees on the court were to leave as scheduled. Finally, he informed Williamson of plans to follow up on the S/WCI-hosted conference for regional prosecutors in Brioni in May with visits to his counterparts in Serbia, Croatia, and Montenegro.

Kreso: We Have a New Era of Cooperation

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¶4. (C) State Court President Kreso thanked Ambassador Williamson for USG support for the Court, noting that Ambassador Williamson's support was essential because of the media attacks and harassment that officials at the court experience. Kreso added that the mandate for international secondees should be extended because it is difficult to handle war crimes and organized crimes cases with the current political environment. Kreso also emphasized her support for extending the international presence at the State Court and the State Prosecutor's Office, saying that it would be more difficult for nationals to prosecute alleged perpetrators from their own ethnic group once the internationals leave in ¶009. She described a "new era of cooperation" between the State Court, State Prosecutor's Office, and the High Judicial and Prosecutorial Council (HJPC). Further progress on war crimes prosecution, Kreso said, depends in part on efforts to harmonize the country's legal codes, to complete the national case inventory, and to improve regional cooperation.

The View from Other International Secondees

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¶5. (C) At a dinner hosted by Ambassador English and attended by Ambassador Williamson, international prosecutors discussed the challenges their office is facing. They declared that the Court had inconsistent practices in place that were complicating their work, that the criminal code

needed to be more comprehensive, and that judges were not reigning in defense counsels as they should. They insisted that extending the secondee program is essential to protect local prosecutors from political pressure, which is growing, and would ensure that war crimes cases are prosecuted fairly across all ethnic groups. The victim-based approach to case selection criteria is an effective rebuttal to Dodik's false assertions that the State Court and the State Prosecutor's Office are biased against Serbs, they said. Separately, during an informal meeting, U.S. judges described the hostile environment their national colleagues face and stressed the important role nationals play in insulating nationals from political pressure and unfounded charges of ethnic bias.

Novkovic: War Crimes Prosecution Has Taken Too Long

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¶ 6. (C) HJPC President Milorad Novkovic, who assumed his position in June, told Ambassador Williamson that war crimes cases are among his chief priorities. He complained about the lengthy war crimes processing at the State Court and the State Prosecutor's Office and suggested that entity courts could also play a role in processing war crimes cases. However, Novkovic echoed Barasin and Kreso in expressing strong support for extending the international presence in state-level judicial institutions past 2009.

Colak and Spiric Show Their Hands

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¶ 7. (C) Minister of Justice Barisa Colak declared that Bosniacs must do a better job of improving regional cooperation but rejected the idea of having internationals work on organized crime cases. (Note: Colak is an HDZ-BiH

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member, whose party president, Dragan Covic, was the subject of a failed corruption prosecution by the State Court Special Department for Organized Crime. End Note) Colak deflected a question on the basis of HDZ BiH opposition to assistance on organized crime prosecution.

¶ 8. (C) Prime Minister Spiric acknowledged that Bosniaks have doubts about war crimes trials in Belgrade or Zagreb, and suggested that bilateral agreements with Croatia and Serbia in establishing shared prosecutorial criteria could allow Bosnia's State Prosecutor's Office to transfer war crimes cases to regional capitals. Ambassador Williamson welcomed this view and suggested that prosecutors could initially transfer a few cases as confidence-building measures and then transfer cases on a case-by-case basis. On extending the international secondees, Spiric said he welcomes any form of "useful assistance" but accused the international secondees of advocating for "their own survival" and for failing to produce results in organized crime cases. This prompted the Ambassador to underscore to Spiric that it was top justice officials who had requested a continued international presence, not the internationals.

Lajcak: "War Crimes is OHR's Least Problematic Area"

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¶ 9. (C) High Representative Miroslav Lajcak told Ambassador Williamson that war crimes is an area in which OHR continues to have significant influence, highlighting that OHR actions against war criminal support networks played an important role in the June arrest of Stojan Zupljanin. Williamson said that the U.S. was disappointed with the absence of language referring to Serbia's non-cooperation with the ICTY in the most recent Peace Implementation (PIC) communique. He also made clear that the U.S. expects meaningful implementation of the PIC rule of law benchmarks. Lajcak acknowledged that he bore responsibility for the communique's language, and he acknowledged U.S. expectations about the benchmarks.

¶10. (C/NF) Lajcak lamented that the international community lacks the political will to "finish the job" in Bosnia and is divided about OHR's future. The U.S., the UK, and Turkey are arguing for robust implementation of the PIC's conditions and benchmarks, Russia favors an immediate closeout of OHR, and most of the EU countries fall somewhere in the middle.

Lajcak said that Europe was "too focused on Serbia" and failed to appreciate the impact its policies were having on Bosnia. Lajcak also explained that the EU "naively believes" that it can apply the same accession model to Bosnia it applied to other East European countries and "everything here will be fine." He beseeched Williamson and other senior U.S. officials to have a dialogue with the EU about the way ahead in Bosnia. Finally, regarding the secondees, Lajcak expressed full support for the proposed extension but cautioned that the international community must have "realistic expectations."

#### The PDHR's Robust Role in Rule-of-Law

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¶11. (C) During a separate meeting, Principal Deputy High Representative (PDHR) Raffi Gregorian briefed Ambassador Williamson on his efforts to guide the drafting of the National War Crimes Strategy in order to generate support from Bosnian politicians, and to advance regional cooperation. Gregorian noted that he is working with the State Prosecutor's Office to identify specific cases that can be transferred to regional capitals as initial test cases. Gregorian expressed concerns about the difficult environment in which Barasin and other judicial officials are operating. As an illustration, he recounted an anecdote in which a Person Indicted for War Crimes (PIFWC) supporter warned Barasin, in the presence of an international colleague, that after the internationals leave, Barasin would be on "the other side of the table."

#### Comment

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¶12. (C) Since the departure of Chief Prosecutor Jurcevic, the State Court is on a stronger footing than it was a few months ago. These improvements, however, have caused political attention and criticism to focus on the court. In the current political climate, the extension of the international secondees is of the utmost importance for Bosnian state courts to effectively prosecute war crimes and organized crimes cases. Prosecutors and judges still fear reprisals when they prosecute individuals from their own ethnic group. International secondees offer cover to judges and prosecutors. One possible solution to reducing pressure on the courts would be to extend only those secondees that are working on war crimes cases, leaving the organized crime section to fall under political pressure. While this possibility seems an obvious solution, it would risk creating a Bosnia in which corruption and impunity rule.

¶13. (U) Ambassador Williamson cleared this message.

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